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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12
13 RICARDO LOPEZ,

14 Plaintiff,

15 v.

16 C. COOK, Medical Appeals Analyst, R.H.
MEISEL, Clinical Optometrist, N. BARRERAS,
17 Chief Medical Officer, MAJID MANI,
Ophthalmologist,
18

19 Defendants.

Civil Case No.: 08cv0438 H(LSP)

**DECLARATION OF DOUGLAS E.
BAXTER IN SUPPORT OF EX
PARTE APPLICATION BY
DEFENDANT R.H. MEISEL FOR
ADDITIONAL TIME TO FILE
RESPONSIVE PLEADING OR
MOTION TO FIRST- AMENDED
COMPLAINT**

Magistrate Judge: Hon. Leo S. Papas

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21 I, Douglas E. Baxter, hereby declare:

22 1. I am an attorney licensed to practice law in the State of California. I am employed as a
23 Deputy Attorney General by the California Office of the Attorney General. I am assigned to
24 represent Defendant R.H. Meisel the above-entitled case.

25 2. Defendant R.H. Meisel performs contract medical services as an Optometrist for the
26 California Department of Corrections and Rehabilitation. He is being sued by Plaintiff for
27 alleged acts arising within the course and scope of this contract employment. He is entitled to
28 legal representation paid for by the State of California.

1 3. On August 20, 2008, I learned for the first time that the United States Marshal's
2 Service had filed a proof of service with the Court, attesting to personal service of the first-
3 amended complaint and summons upon Defendant Meisel on August 8, 2008. I further learned
4 that the Court had set August 28, 2008, as the deadline for Defendant Meisel to file a responsive
5 pleading.

6 4. I have learned that, since the summons and complaint were left with Defendant Meisel's
7 colleague at an office that Defendant Meisel only visits twice each month, it took a few days
8 before Defendant Meisel was provided copies of the summons and complaint. Afterward,
9 Defendant Meisel tendered the documents over to the Litigation Coordinator at Centinela State
10 Prison with a request for representation from the Attorney General's Office. My office did not
11 receive this request until August 20, 2008. I spoke to Defendant Meisel for the first time on
12 August 21, 2008, and he authorized me to file this ex parte application for an extension of time
13 to file a responsive pleading or motion to the first-amended complaint. He has requested
14 representation by the Attorney General's Office

15 5. Defendant Meisel will be leaving for a pre-planned trip to Africa on August 23, 2008.
16 He will not be returning until September 10, 2008.

17 6. Once Defendant Meisel returns, I will need time to consult with him on the issues in
18 the first-amended complaint in order to prepare the appropriate responsive pleading or motion.
19 Part of this consultation will entail analyzing Plaintiff's medical records, which will likely take
20 as much as two weeks to procure from the prison where Plaintiff is currently incarcerated.

21 7. Plaintiff is presently incarcerated at California Men's Colony. On August 22, 2008, I
22 faxed a letter to Plaintiff through the Litigation Coordinator's office at this prison. The letter
23 advised Plaintiff that Defendant Meisel would be filing an ex parte application for an order
24 extending the time for Defendant Meisel to file a responsive pleading. My letter advised
25 Plaintiff that Dr. Meisel would be seeking a 45-day extension from the date the ex parte
26 application is filed. The letter included copies of R.H. Meisel's ex parte application, the
27 proposed order, and this declaration.

28 I declare under the penalty of perjury under the laws of the State of California and the

1 United States that the forgoing statements are true and correct and based on my own personal
2 knowledge. Executed on this day, the 22nd day of August 2008, in San Diego, California.

3 /s/ Douglas E. Baxter
4 DOUGLAS E. BAXTER
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